

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

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|--|---|---------------------------|
| 5AIF SYCAMORE 2, LLC, LLC, | § | |
| | § | |
| | § | |
| <i>Plaintiff(s),</i> | § | CIVIL ACTION NO. |
| | § | 1:19-cv-000431-RP |
| vs. | § | |
| | § | |
| BEIT NES, LLC, MARILYN ROTH EPSTEIN and STEPHAN B. EPSTEIN, | § | Consolidated with: |
| | § | 1:19-cv-00495-RP |
| | § | |
| <i>Defendant(s).</i> | § | |

**DEFENDANTS' MOTION FOR EXTENSION OF TIME
TO FILE RESPONSE TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Defendants, Marilyn Roth Epstein, Stephan B. Epstein and BEIT NES, LLC, file this Motion for Extension of Time to File their Response to Plaintiff's Motion for Summary Judgment and respectfully show the following:

1. Friday, June 25, 2021, the Plaintiff filed a motion for Summary Judgment under Federal Rule of Civil Procedure 56.
2. Plaintiffs' deadline to file their Response is Friday, July 9, 2021.
3. In November 2020, Mr. Epstein filed a petition for divorce in the Travis County District Court, Cause D-1-FM-20-006199. Heretofore, it has been extremely difficult for Defendants' attorneys in this litigation to effectively represent the Defendants. Representing the Defendants during the discovery process was very difficult.
4. In December 2020 attorney James Minerve informed the Defendants that Defendants' attorneys would file a motion to withdraw and the Defendants would have to each retain separate counsel, unless the Defendants could collaborate in this litigation.

5. In early April 2021, the Epsteins informed Defendants' attorneys that the Defendants would endeavor to obtain an order in the divorce litigation, which order would enable the parties to collaborate, obviating the need for withdrawal of Defendants' attorneys. Since then the Defendants have refused to authorize any legal services by their attorneys in this litigation, except to attempt to settle this litigation; and the Defendants have refused to pay for legal services under the preexisting legal services engagement letters between the Defendants and their attorneys in this litigation.
6. There was a hearing scheduled Today, Friday, July 9, 2021 in Cause D-1-FM-20-006199 to obtain temporary orders, which hearing was canceled by one of the Defendants' divorce attorneys.
7. Neither of the Defendants nor their divorce attorneys could give me a date certain when Cause D-1-FM-20-006199 will be set for hearing. Attorney James Minerve's best estimate is within three weeks the court in Cause D-1-FM-20-006199 will issue temporary orders.
8. Defendants' attorneys in this litigation need three weeks to file a response to the Plaintiff's Motion for Summary Judgment.
9. Opposing counsel is only unopposed to a fourteen-day extension to respond to Defendant's Motion for Summary Judgment, provided the Defendants agreed to not seek any additional extensions to respond to the Plaintiff's Motion for Summary Judgment.
10. Plaintiffs request a Six (6) week extension of time to file their Response such that Plaintiffs' Response will be due on August 20, 2021.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that this Court grant their Motion for Extension of Time to File their Response to Plaintiff's FRCP 56 Motion for Summary Judgment and extend their deadline to file same to August 20, 2021.

Respectfully submitted,
By: /s/ James Minerve

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CERTIFICATE OF CONFERENCE

On July 9, 2021, the undersigned counsel for Defendants conferred with Plaintiff's counsel, Tate L. Hemingson, concerning the foregoing Motion and Mr. Hemingson stated that he and his Client are opposed to this Motion; however, they are unopposed to a two week extension, provided the Defendants did not request any additional extensions to respond to Plaintiff's Motion for Summary Judgment.

/s/ James Minerve

James Minerve

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July 2021 a true and correct copy of the above and foregoing document was sent via the Court's electronic filing notification system and via e-mail to the following:

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/s/ James Minerve

James Minerve